

JUL 19 1989

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code.

The data submitted discloses you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. Your intended, purpose is to operate, manage and maintain [REDACTED], a Condominium comprised of [REDACTED] residential units and the Common elements.

Your activities consist of collecting membership dues from the Condominium owners and provide maintenance of the building and grounds.

Section 501(c)(3) of the Code provides for the exemption of organizations which are organized and operated exclusively for charitable, religious, and educational purpose, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Regulations defines private shareholder or individual as persons having private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provide that an organization is not organized and operated exclusively for charitable, religious, and educational purposes unless it serves a public, rather than a private purpose.

Code	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]
Surname	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]	Reviewer	[REDACTED]
Date	3/16/89	Reviewer	3/17/89	Reviewer	7/19/89	Reviewer		Reviewer	

In the case of Benedict Ginsberg vs. Commissioner, 46 TC 47: A non-profit corporation was forced to dredge a navigable waterway fronting the properties of its members. This waterway was little used by the general public; but its navigability greatly affected the value of members' properties. Also, evidence showed that the "contributions" came solely from members and were proportionate to the value of their property. On these facts, it was held that the corporation was not charitable, but was serving private purposes.

In Revenue Ruling 57-367, 1967-2 C.B. 188, a non-profit organization whose sole activity is the operation of a "scholarship fund" plan for making payments to pre-selected, specifically-named individuals, does not qualify for exemption.

In Revenue Ruling 69-176, 1969-1 C.B. 11, a non-profit organization formed by parents of pupils attending a private school that provides school bus transportation for its members' children serves a private rather than a public interest.

In Revenue Ruling 74-17, 1974-1 C.B. 130 an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project as defined by State Statute with membership assessments paid by the unit owners was held not to qualify for tax exemption under section 501(c)(4) of the Code. The care of the common areas constituted private benefit for the members.

On the basis of the evidence presented, we find that you are not operating exclusively for exempt purposes under section 501(c)(3), since you are providing services for the exclusive benefit of your members. You are, therefore, serving private interests rather than a public benefit.

In addition, your creative document the Articles of Incorporation, does not pass the organizational test under section 501(c)(3) of the Code since provision has not been made for proper distribution of your assets in the event of dissolution of your organization.

Contributions to your organization by citizens and residents of the United States are not deductible by them in the computations of their taxable income for United States income tax purposes.

You are required to file form 1120 annually.

Appropriate State officials will be routinely notified of this action in accordance with Section 6104(c) of the code.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal position, as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional office, or at your request at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims or the District court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours

District Director

Enclosure: Publication 892  
cc: State Attorney General: [REDACTED]